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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/813,672

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Kathryn Ann McDonald

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27201

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02/09/2005

UNISYS CORPORATION  
OFFICE OF GENERAL COUNSEL  
10850 VIA FRONTERA  
M/S 1000  
SAN DIEGO, CA 92127

EXAMINER

SHAAWAT, MUSSA

ART UNIT

PAPER NUMBER

2128

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/813,672	<b>Applicant(s)</b> MCDONALD ET AL.	
	<b>Examiner</b> Mussa A Shaawat	<b>Art Unit</b> 2128	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6 is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 7 is/are rejected.
- 7) ☒ Claim(s) 3-5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is responsive to the application filed on March 21, 2001. Claims 1-7 are presented for examination.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Kabekode V. Bhat US Patent No. (5,668,995) referred to hereinafter as Bhat.

As per claim 1, Bhat teaches a method for developing a Metafarm having an optimal number of Server Farms to provide recommended configurations meeting certain specified parameters, wherein a number of factors are established which include: (i) the total number of users who will be using metafarm (see col.4 lines 31-43, total number of users); (ii) an availability goal which indicates the percentage of time that the systems and applications in each server farm will be accessible to all the users involved (col.4 lines 36-38, time of transactions); (iii) assigning a user weight volume to each type user to indicate estimated average usage or light, medium, heavy or super heavy (col.4 lines 40-42 usage service time per user); (iv) calculating the number of servers to be assigned to each server Farm and which will fulfill the said availability goal (col.4 lines 45-50 calculates number of disk drives and processors to accommodate

users request); (v) calculating the number of redundant servers per server Farm needed to provide maximum performance over and above the average nominal performance while still fulfilling said availability goal (col.6 lines 15-25, identifies components that may be overloaded with data and suggests additional components to eliminate bottlenecks i.e. figuring out the number of servers or processors needed to maximize the performance); (vi) seeking to find the minimum number of server Farms which still provide an optimum Redundancy Factor of extra servers which will still fulfill the desired availability goal (col.6 lines 15-25, identifies components that may be overloaded with data and suggests additional components to eliminate bottlenecks i.e. figuring out the number of servers or processors needed to maximize the performance), comprising the steps of:

(a) Delivering input data on the total number of users to be serviced, the Availability goal to be achieved, the User-Weight utilization factors involved, and the preferred Server types to be used, (see col.5 lines 61-67 determines the recommended multiprocessors computer systems, the number of processors needed in the system, the amount of memory required, and the configuration of a disk subsystem suitable for the system, which includes the user weight factors, availability goal and number of servers).

(b) Sequencing a series of calculations to determine the number of Servers per Farm and the number of redundant Servers per Farm, which match or exceed the said Availability goal, see (col.4 lines 50-57, col.6 lines 15-25 determines number of hard drives and processors required for the user i.e. calculating number of servers, the

system also suggests additional components to be used if it overloads i.e. redundant servers).

(c) Displaying a set of recommendations which show the minimum number of Server Farms, which have the optimum redundancy factor and meet the values needed for the Availability goal, see (col.4 lines 50-57, col.6 lines 15-25, col.4 lines 58-67, determines number of hard drives and processors required for the user i.e. calculating number of servers, the system also suggests additional components to be used if it overloads i.e. redundant servers).

As per claim 2, Bhat teaches a method of claim 1 wherein data on benchmark operational parameters are consulted on a specific type of server to establish the maximum number of users which can be supported by said chosen specific type of server, and wherein step (b) includes the steps of:

(b1) retrieving a Benchmark parameter, which indicates the maximum number of users, which can be serviced by a chosen server, type; see (col.4 lines 40-45, total number of users at a given time).

(b2) calculating a preliminary number of such chosen Servers, which will constitute Server Farm, see (col.4 lines 50-57, col.6 lines 15-25 determines number of hard drives and processors required for the user i.e. calculating number of servers, the system also suggests additional components to be used if it overloads i.e. redundant servers).

As per claim 7, Bhat teaches a system for configuring a Metafarm consisting of multiple Server Farms, which provides the optimum size and Availability Level goals for a specified customer profile comprising:

(a) Customer profile data means stored in a customer database; see (col.2 lines 40-45, database controlled by the operating system of the invention).

(b) Benchmark information means stored in a benchmark database indicating the number of Servers required to service a given number of users, see (col.1 lines 57-67, the capacity planning system determines the number of processors i.e. servers needed and the amount of memory required, the number of disk drives, the size of disk drives needed by the user, see col.2 lines 40-45, database).

(c) Program means for calculating the optimum number of Servers per Farm and the optimum number of redundant Servers per Farm, see (col.4 lines 50-57, col.6 lines 15-25 determines number of hard drives and processors required for the user i.e. calculating number of servers, the system also suggests additional components to be used if it overloads i.e. redundant servers).

(d) Loop sequencing means for configuring different number of Servers per Farm with different values of the Redundancy Factor to display parameters, which meet or exceed a prescribed Availability Level goal, see (col.4 lines 50-57, col.6 lines 15-25 determines number of hard drives and processors required for the user i.e. calculating number of servers, the system also suggests additional components to be used if it overloads i.e. redundant servers).

***Allowable Subject Matter***

3. Claims 3-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
4. Claim 6 is allowed.

***Response to Amendment***

5. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.
6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Bixler et al. US Patent No. (6,212,559) automated configuration of internet-like computer network.
- Kennelly et al. US Patent No. (6,754,702) custom administrator views of management objects.
- Austin et al. US Patent No. (5,500,934) Display and control system for configuration and monitoring a complex system.
- Burger et al. US Patent No. (6,779,082) Network-based disk redundancy storage system and method.
- Midgley et al. US Patent No. (6,847,984) System and methods for backing up data files.
- Wang et al. US Patent No. (6,834,326) Raid method and device with network protocol between controller and storage devices.

### ***Communication***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mussa A Shaawat whose telephone number is (571) 272-3785. The examiner can normally be reached on Monday-Friday (8:30am to 5:00pm).



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jean R Homere can be reached on (571) 272-3780. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mussa Shaawat  
Patent Examiner  
February 4, 2005

JEAN R. HOMERE  
PRIMARY EXAMINER